

of authority to an officer or agent of a contracting agency who ordered any materials, services, and facilities might invalidate the contract or commitment, the contracting agency (1) shall not take advantage of such defect or omission; (2) shall amend, confirm, or ratify such contract or commitment without consideration in order to cure such defect or omission; and (3) shall make a fair settlement of any obligation thereby created or incurred by such agency, whether expressed or implied, in fact or in law, or in the nature of an implied or quasi contract.

(c) Failure to settle

Where a contracting agency fails to settle by agreement any claim asserted under this section, the dispute shall be subject to the provisions of section 113 of this title.

(d) Formalization of obligations; termination date for filing claims

The Administrator of General Services shall require each contracting agency to formalize all such obligations and commitments within such period as the Administrator of General Services deems appropriate. No person shall be entitled to recover compensation, to receive a settlement of any alleged obligation, or to obtain the benefit of any amendment, confirmation, ratification, or formalization of any alleged contract or commitment under the provisions of subsections (a), (b), (c), or (d) of this section, unless such person shall, on or before one hundred and eighty days after June 28, 1954, have filed a claim therefor with the contracting agency.

(July 1, 1944, ch. 358, §17, 58 Stat. 665; Ex. Ord. No. 9809, §8, eff. Dec. 12, 1946, 11 F.R. 14281; 1947 Reorg. Plan. No. 1, §201, eff. July 1, 1947, 12 F.R. 4534, 61 Stat. 951; June 30, 1949, ch. 288, title I, §102(b), 63 Stat. 380; June 28, 1954, ch. 403, §1, 68 Stat. 300.)

AMENDMENTS

1954—Subsec. (d). Act June 28, 1954, inserted sentence providing a termination date for filing claims.

TRANSFER OF FUNCTIONS

Functions of Secretary of the Treasury transferred to Administrator of General Services by section 102(b) of act June 30, 1949, which is classified to section 752(b) of Title 40, Public Buildings, Property, and Works.

“Secretary” substituted for “Director” by section 8 of Ex. Ord. No. 9809 and section 201 of Reorg. Plan No. 1 of 1947, set out in the Appendix to Title 5, Government Organization and Employees.

EFFECTIVE DATE OF TRANSFER OF FUNCTIONS

Transfer of functions by act June 30, 1949, effective July 1, 1949, see section 605 of act June 30, 1949, set out as an Effective Date note under section 471 of Title 40, Public Buildings, Property, and Works.

NONACCRUAL OF LIABILITY

Section 2 of act June 28, 1954, provided that no liability should accrue by reason of the enactment of section 1 of that act [amending this section] which would not otherwise have accrued.

§ 118. Administration

(a) Records and forms

The Administrator of General Services shall establish policies for such supervision and review within the contracting agencies of termi-

nation settlements and interim financing as he deems necessary and appropriate to prevent and detect fraud and to assure uniformity in administration and to provide for expeditious settlements. For this purpose he shall prescribe (1) such records to be prepared by the contracting agencies and by war contractors as he deems necessary in connection with such settlements and interim financing; and (2) the records in connection therewith to be transmitted to the General Accounting Office. He shall seek to reduce the amount of record keeping, reporting, and accounting in connection with the settlement of termination claims and interim financing to the minimum compatible with the reasonable protection of the public interest. Each contracting agency shall prescribe forms for use by war contractors in connection with termination settlements and interim financing to the extent it deems necessary and feasible.

(b) Repealed. Oct. 31, 1951, ch. 654, §1(111), 65 Stat. 705

(c) Advance notice on cut-backs

The Administrator of General Services, by regulation, shall provide for making available to any interested Government agency such advance notice and other information on cut-backs in war production resulting from terminations or failures to renew or extend war contracts, as he deems necessary and appropriate.

(d) Investigations

The Administrator of General Services shall make such investigations as he deems necessary or desirable in connection with termination settlements and interim financing. For this purpose he may utilize the facilities of any existing agencies and if he determines that the facilities of existing agencies are inadequate, he may establish a unit in the General Services Administration to supplement and facilitate the work of existing agencies. He shall report to the Department of Justice any information received by him indicating any fraudulent practices, for appropriate action.

(e) Certification of fraudulent settlements to Department of Justice

Whenever any contracting agency or the Administrator of General Services believes that any settlement was induced by fraud, the agency or Administrator of General Services shall report the facts to the Department of Justice. Thereupon, (1) the Department of Justice shall make an investigation to determine whether such settlement was induced by fraud, and (2) until the Department of Justice notifies the contracting agency that in its opinion the facts do not support the belief that the settlement was induced by fraud, the contracting agency, by set-off or otherwise, may withhold, from amounts owing to the war contractor by the United States under such settlement or otherwise, the amount of the settlement, or the portion thereof, which, in its opinion, was affected by the fraud. In any such case the Department of Justice shall take such action as it deems appropriate to recover payments made to such war contractor.

(July 1, 1944, ch. 358, §18, 58 Stat. 666; Ex. Ord. No. 9809, §8, eff. Dec. 12, 1946, 11 F.R. 14281; 1947

Reorg. Plan No. 1, §201, eff. July 1, 1947, 12 F.R. 4534, 61 Stat. 951; June 30, 1949, ch. 288, title I, §102(b), 63 Stat. 380; Oct. 31, 1951, ch. 654, §1(111), 65 Stat. 705.)

AMENDMENTS

1951—Subsec. (b). Act Oct. 31, 1951, struck out provisions which related to preparation of information and reports regarding termination of war contracts, settlements of termination claims, interim financing, etc.

TRANSFER OF FUNCTIONS

Functions of Secretary of the Treasury transferred to Administrator of General Services by section 102(b) of act June 30, 1949, which is classified to section 752(b) of Title 40, Public Buildings, Property, and Works.

“Department of the Treasury” substituted for “Office of Contract Settlement” in subsec. (d) and references to “Director” changed to “Secretary” throughout this section by section 8 of Ex. Ord. No. 9809 and section 201 of Reorg. Plan No. 1 of 1947, set out in the Appendix to Title 5, Government Organization and Employees.

EFFECTIVE DATE OF TRANSFER OF FUNCTIONS

Transfer of functions by act June 30, 1949, effective July 1, 1949, see section 605 of act June 30, 1949, set out as an Effective Date note under section 471 of Title 40, Public Buildings, Property, and Works.

§ 119. Fraudulent claims, vouchers, statements, etc.; jurisdiction

Every person who makes or causes to be made, or presents or causes to be presented to any officer, agent, or employee of any Government agency any claim, bill, receipt, voucher, statement, account, certificate, affidavit, or deposition, knowing the same to be false, fraudulent, or fictitious or knowing the same to contain or to be based on any false, fraudulent, or fictitious statement or entry, or who shall cover up or conceal any material fact, or who shall use or engage in any other fraudulent trick, scheme, or device, for the purpose of securing or obtaining, or aiding to secure or obtain, for any person any benefit, payment, compensation, allowance, loan, advance, or emolument from the United States or any Government agency in connection with the termination, cancelation, settlement, payment, negotiation, renegotiation, performance, procurement, or award of a contract with the United States or with any other person, and every person who enters into an agreement, combination, or conspiracy so to do, (1) shall pay to the United States an amount equal to 25 per centum of any amount thereby sought to be wrongfully secured or obtained but not actually received, and (2) shall forfeit and refund any such benefit, payment, compensation, allowance, loan, advance, and emolument received as a result thereof and (3) shall in addition pay to the United States the sum of \$2,000 for each such act, and double the amount of any damage which the United States may have sustained by reason thereof, together with the costs of suit.

The several district courts of the United States, the several district courts of the Territories of the United States, within whose jurisdictional limits the person, or persons, doing or committing such act, or any one of them, resides or shall be found, shall, wheresoever such act may have been done or committed, have full power and jurisdiction to hear, try, and determine such suit, and such person or persons as

are not inhabitants of or found within the district in which suit is brought may be brought in by order of the court to be served personally or by publication or in such other reasonable manner as the court may direct.

(July 1, 1944, ch. 358, §19(a), (c)–(e), 58 Stat. 667; June 25, 1948, ch. 645, §21, 62 Stat. 862.)

CODIFICATION

As originally enacted, the second undesignated paragraph of this section contained the words, “, the District of Columbia” after “The several district courts of the United States”. The words “District of Columbia” have been deleted entirely as superfluous in view of section 132(a) of Title 28, Judiciary and Judicial Procedure, which states that “There shall be in each judicial district a district court which shall be a court of record known as the United States District Court for the district”, and section 88 of Title 28 which states that “the District of Columbia constitutes one judicial district”.

Section was comprised of subsecs. (a) and (c) to (e) of section 19 of act July 1, 1944. Subsec. (b) of section 19 was classified to section 590a of Title 18, Criminal Code and Criminal Procedure, prior to the general revision and enactment of Title 18, Crimes and Criminal Procedure, by act June 25, 1948, ch. 645, 62 Stat. 683. Subsecs. (a), (d), and (e) of section 19 were repealed by act June 25, 1948, leaving only subsec. (c) of section 19, which comprises this section. Subject matter of former subsecs. (a), (d), and (e) of section 19 is covered by sections 201, 287, 443, and 1001 of Title 18.

AMENDMENTS

1948—Act June 25, 1948, repealed first, second, fifth, and sixth undesignated pars. See Codification note above.

EFFECTIVE DATE OF 1948 REPEAL

Amendment by act June 25, 1948, effective Sept. 1, 1948, see section 20 of that act.

CROSS REFERENCES

False, fictitious or fraudulent claims, see section 287 of Title 18, Crimes and Criminal Procedure.

False statements or entries generally, see section 1001 of Title 18.

War contracts penal provision as comprehending the definitions of terms used in this section, see section 443 of Title 18.

Wartime suspension of limitations, see section 3287 of Title 18.

§ 120. Powers and duties of contracting agencies

(a) Limitation

Each contracting agency shall have authority, notwithstanding any provisions of law other than contained in this chapter, (1) to make any contract necessary and appropriate to carry out the provisions of this chapter; (2) to amend by agreement any existing contract, either before or after notice of its termination, on such terms and to such extent as it deems necessary and appropriate to carry out the provisions of this chapter; and (3) in settling any termination claim, to agree to assume, or indemnify the war contractor against, any claims by any person in connection with such termination claims or settlement. This subsection shall not limit or affect in any way any authority of any contracting agency under the First War Powers Act, 1941, or under any other statute.

(b) Evidence required; conclusiveness of determinations

Any contracting agency may prescribe the amount and kind of evidence required to iden-